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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/828,877 | 04/20/2004 | Landy Wang | 2391 | 5611 |

39254 7590 11/21/2005

LAW OFFICES OF ALBERT S. MICHALIK, PLLC
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EXAMINER

BRAGDON, REGINALD GLENWOOD

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2185

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|---------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/828,877 | WANG, LANDY |
| | Examiner Reginald G. Bragdon | Art Unit 2185 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 9-19 is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) 8 and 20 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 April 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The Information Disclosure Statement received 28 February 2002 has been considered except as noted below. See the attached PTO-1449.
2. Document EC (“What is Inferno System”, Inferno User’s Guide) has not been considered since the IDS does not list the date of publication. See MPEP § 609(III)(A)(1).

Drawings

3. The drawings filed on 20 April 2004 have been approved by the Examiner.

Specification

4. Applicant is requested to update any data (continuation serial number, patent number, etc...) concerning co-pending or related applications listed in the specification.

The status of the parent application on page 1 (as submitted in the preliminary amendment of 20 April 2004) should be updated with the patent number.

Claim Objections

5. Claim 20 is objected to because of the following informalities:

As per claim 20, line 1, “17” should be --19--.

Appropriate correction is required.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claim 1-7 of U.S. Patent 6,738,875 contains every element of claims 1-2 of the instant application and as such anticipates claim 1-7 of the instant application.

“A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. *In re Longi*, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); *In re Berg*, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). “ **ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).**

| 10/828,877 Application | 6,738,875 |
|--|--|
| 1. A computer-readable medium having computer-executable instructions, comprising: maintaining information indicative of whether a page has been modified since last checked; | See lines 1-3 of claim 1 of the '875 patent. |
| modifying the information upon the page being trimmed to storage to indicate that the page has been modified since last checked; | See lines 7-9 of claim 1 of the '875 patent. |
| receiving a request as to whether the page has been modified since last checked; and | See lines 12-14 of claim 1 of the '875 patent. |
| indicating in response to the request that the page has been modified since last checked based on the information. | See lines 15-17 of claim 1 of the '875 patent. |
| 2. The computer-readable medium of claim 1, wherein the information is maintained in a bitmap having one bit for each page of a plurality of pages, the plurality of pages including the page, each bit indicating whether its corresponding page has been changed since last checked. | See lines 18-20 of claim 1 of the '875 patent. |
| 3. The computer-readable medium of claim 2, wherein the bitmap is subject to modification each time one of the plurality of pages is trimmed to storage, the modification to the bitmap indicating that the page trimmed to storage has been modified since last checked. | See lines 10-14 of claim 1 of the '875 patent. |
| 4. The computer-readable medium of claim 1, wherein the request comprises a request for modification information for a range of a plurality of pages including the page, and wherein the response indicates whether each page in the range of pages has been changed since last checked. | See lines 15-17 of claim 1 of the '875 patent. |
| 5. The computer-readable medium of claim 4, wherein the plurality of pages were allocated by a process. | See lines 4-6 of claim 1 of the '875 patent. |
| 6. The computer-readable medium of claim 5, wherein the plurality of pages include all allocated pages of the process. | See lines 7-8 of claim 1 of the '875 patent. |
| 7. The computer-readable medium of claim 4, wherein the pages are virtual pages. | See lines 3-4 of claim 2 of the '875 patent. |

Allowable Subject Matter

8. Claims 9-20 are allowed. Claim 20 is objected to as set forth above under "Claim Objections".
9. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

All "OFFICIAL" patent application related correspondence transmitted by FAX must be directed to the central FAX number at **(571) 273-8300**:

"INFORMAL" or "DRAFT" FAX communications may be sent to the Examiner at **(571) 273-4204**, only after approval by the Examiner.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald G. Bragdon whose telephone number is (571) 272-4204. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 4:30 PM and every other Friday from 7:00 AM to 3:30 PM.

The examiner's supervisor, Mano Padmanabhan, can be reached at (571) 272-4210.

Reginald G. Bragdon

Reginald G. Bragdon
Primary Patent Examiner
Art Unit 2185